

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANNY MANZANARES,

Plaintiff,

vs.

No. CIV 05-00095 WPJ/LFG

**SEAN HIGDON, an Officer of the
Albuquerque Police Department,
Individually,**

Defendant.

DEFENDANT SEAN HIGDON'S PROPOSED VOIR DIRE

Defendant Sean Higdon, by and through his attorney, Kathryn Levy, hereby submits his Proposed Voir Dire as follows:

I. GENERAL BACKGROUND QUESTIONS

- A. Counsel assumes that the Court will inquire of the jury whether they know any of the parties or attorneys in the case or the families of parties or attorneys. Counsel would also request that the Court inquire whether the jurors know any of the witnesses in the case or the families of the witnesses. Witness lists will be filed by all parties.
- B. In addition, counsel would request the following general information:
1. Do any of you feel that just because someone brings a lawsuit, he is entitled to recover money from a defendant? Do you feel that just because defendant Higdon is a police officer employed by the City of Albuquerque, you would be more or less inclined to award money to the plaintiff?
 2. How many of you have served on a jury in either a criminal or civil case? If so, please describe:

- a. The kind of case you sat on and whether the jury was able to reach a verdict?
 - b. Whether you regard this as a positive or negative experience?
3. Have you or any close friend or relative ever been involved in a criminal case, either as a victim, witness, or defendant? If so, please describe your involvement in the criminal case.
4. Have you or any close friend or relative ever been involved in a civil case, either as a plaintiff, defendant, or witness? If so, please describe the kind of case you were involved in, the nature of the involvement, and the outcome.
5. Have you or any of your family members ever worked in an attorney's office? If so, please state who/relationship to you, the name of the attorney, the position of employment, and the type of practice the attorney is involved in.

II. CONNECTIONS WITH LAW ENFORCEMENT

- A. Counsel requests leave to conduct a thorough inquiry about employment/experiences with law enforcement as police officers' conduct on the job is at issue in this lawsuit.
- B. Counsel would request to be allowed to inquire into the following:
 1. If you or any of your relatives or close friends have been employed by a law enforcement agency, please indicate:
 - a. Who/Relationship to you?
 - b. What law enforcement agency?
 - c. Position or job description?
 - d. Length of employment?
 - e. If no longer so employed, the reason?
 - f. Will this employment affect or influence your ability to serve as a fair juror for both sides in this case?
 - g. Do you have some pre-conceived notions about police or law enforcement officers, either favorable or unfavorable?
 - h. Do you feel that because the defendants law enforcement officers that they are more or less credible or believable than an ordinary citizen?
 2. Have any of you ever been stopped or approached by a law enforcement officer for any type of investigation or citation? If so, please indicate:
 - a. Whether you have any criticism of the officer's conduct?
 - b. Whether this experience will affect you if you sit as a juror in this case?

3. Do any of you have relatives or friends that have complained to you about their encounters with police officers? If so,
 - a. What did they complain about?
 - b. Would this experience affect or influence your ability to serve as a fair juror for both sides in this case?
4. Have you or any close relative been arrested? If so, do you believe that the experience would affect your ability to serve as a fair juror for both sides in this case?
5. Have any of you ever felt personally threatened by a law enforcement officer? If so,
 - a. Describe the circumstances.
 - b. Will this experience affect or influence you if you sit as a juror in this case?
6. Has anyone ever been in a situation where they needed the assistance or protection of a police or law enforcement officer?
 - a. What was the situation?
 - b. Do you have any criticism of the officer(s) conduct?
 - c. Would this experience affect or influence your ability to serve as a fair juror for both sides in this case?
7. Does anyone believe that Albuquerque's police are more prone to mistreating citizens than other police departments?
 - a. Does anyone believe than many Albuquerque police officers routinely violate citizens' rights?
 - b. Have you personally seen police officers use what you believed to be unnecessary force in carrying out their duties?
 - c. Do you think that there are times when police officers risk their lives or safety while carrying out their police duties?
8. Does anyone believe that all violations of a citizen's constitutional rights must be compensated with money?
9. Do you believe that people who file injury claims or lawsuits for personal injuries may sometimes intentionally exaggerate and magnify their symptoms to support their claim for damages or financial compensation?
10. Do any of you have any opinions about the Albuquerque Police Department which could affect your decision in this case? If so, do you think that you could set aside

those opinions and decide this case based only on the evidence presented in this Courtroom?

III. ADDITIONAL AREA OF INQUIRY

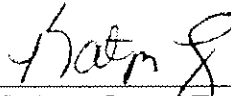
1. Is there anyone here who believes that a police officer may not use some degree of force to either protect his fellow officers or himself or to control a suspect?
2. The judge will instruct you on the law in this case about when a police officer can enter and remain a citizen's house. Does anyone believe that the police do not have the right to enter your house under any circumstances? Given that belief and if the judge instructs you differently, would you be able to put aside that belief and decide this case based on the law that the judge gives you?
3. Do any of you have any opinions about the Albuquerque Police Department which could affect your decision in this case? If so, do you think that you could set aside those opinions and decide this case based only on the evidence presented in this Courtroom?

IV. FINAL QUESTION

Is there any reason at all that makes you feel you could not be fair and impartial or otherwise might have difficulty serving on this case? If you prefer, you may come up to the bench to explain.

Respectfully Submitted,

CITY OF ALBUQUERQUE
Robert M. White
City Attorney



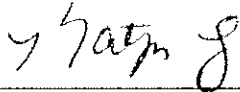
Kathryn Levy, Esq.
Attorney for Defendant
P.O. Box 2248
Albuquerque, New Mexico 87103
(505) 768-4500
(505) 768-4440 (facsimile)

I hereby certify that the
foregoing was mailed to:

Dennis W. Montoya, Esq.
Attorney for Plaintiff
P.O. Box 15235
Rio Rancho, NM 87174
(505) 246-8499
Fax 246-8599

Arlon L. Stoker, Jr., Esq.
Attorney for Plaintiff
P.O. Box 658
Farmington, NM 87499-0658
(505) 326-0404
Fax (505) 326-3636

on this 25 day of August, 2006.

A handwritten signature in cursive script, appearing to read 'Kathryn Levy', written over a horizontal line.

Kathryn Levy
Deputy City Attorney